

Steve Mihalchick

From: David Dahl [itasca@northlc.com]
Sent: Saturday, November 28, 2009 8:13 AM
To: Steve.Mihalchick@state.mn.us
Subject: Comments on Final EIS - Excelsior Mesaba Energy Project
Attachments: Mesaba-FEIS-Comment.pdf



Mesaba-FEIS-Comment.pdf (37 KB...

Judge Mihalchick,

Please find attached a three-page pdf file containing comments regarding the final EIS for the Excelsior Mesaba Energy Project.

Thank you for considering these comments, and for the opportunity to review and remark on the final EIS. Please let me know whether the attached pdf comment opens successfully. Thanks.

David Dahl
9016 Lahti Road
Hibbing, MN 55746

Judge Steven M. Mihalchick
Administrative Law Judge
Minnesota Office of Administrative Hearings
P.O. Box 64620
St. Paul, MN 55164-0620

November 28, 2009

Subject: Three comments on Final Environmental Impact Statement (EIS) - Excelsior Energy Mesaba Project

Judge Mihalchick,

A proposed feature of the Mesaba Energy project is the closure and alteration of the 1,300 acre Canisteo cold water lake trout fishery and recreational water body at the West Range site. Canisteo is the sixth largest lake trout fishery in the state and its size places it among the 250 largest lakes in Minnesota. In terms of impact, if another project proposed to close the combined waters of the Minneapolis Chain-of-Lakes, that is, the entirety of lakes Calhoun, Harriet, Cedar, Nokomis, Hiawatha and Lake of the Isles to recreational and fishery access, less water area would be affected than under the current proposal to close Canisteo.

Surely a final EIS would thoroughly characterize an impact of this magnitude, discuss the resource in detail, and describe avoidance, mitigation and replacement alternatives. This final EIS does not.

Comment No. 1: The numerous Pre-Scoping, Scoping and draft EIS comments by agencies and citizens that pointed out deficiencies in addressing this matter appear to have been discounted or ignored. The final EIS makes a few minimal remarks about the Canisteo lake trout fishery and recreational waters, but little detail is provided about even the simplest items decision makers will need in order to weigh the proposed closure/alteration action for siting and permitting. It is not sufficient for an EIS to remain vague or conceptual. It needs specifics, such as:

- location and acreage proposed for closure
- full description of the unique cold water fishery and recreational waters
- detail of agency and landowner closure agreements
- maps of these details at adequate scale
- identification of fishing reefs, structures and basins that would be lost to closure
- analyzed risk for invasive species introduction due to mingling of pumped waters
- analysis of impact of removal of the deep, clean, cold water reservoir
- avoidance options (e.g., avoid Canisteo by placing the intake in the Lind Pit)
- mitigation alternatives to avoid impacting or closing Canisteo
- plans to replace lost cold water fishery acreage

Judge Steven M. Mihalchick
November 28, 2009
FEIS Comments from D. Dahl
page -2-

Comment No. 2: **The oral comment that I made at the draft EIS public hearing in Taconite is missing from the final EIS transcripts, AND, the oral comment that I made at the draft EIS public hearing in Hoyt Lakes is also missing from the transcripts.** These valid and constructive comments about the draft EIS are neither noted nor responded to in the final-EIS.

Judge Mihalchick may recall interrupting one lengthy presenter during that chilly evening session in Hoyt Lakes in order to hear my comments regarding the Canisteo trout fishery. Those comments are not found in the final EIS and are not responded to. These were substantive and constructive comments submitted in a timely manner. That these comments are missing is disturbing because it means that valid and constructive public comment is not responded to in the final EIS. I wonder how many other valid comments have been lost along the way.

Comment No. 3: One cannot help but notice a pattern throughout this environmental review of discounting the major fishery and recreational waters of Canisteo. This deliberate activity should now be called to account in determining adequacy of the final EIS. At the beginning of this exercise, Excelsior employed site selection criteria that failed to evaluate for significant environmental features such as Canisteo. In spite of all of the constructive comments by citizens and state agencies, the final EIS produced by Excelsior Energy, the U. S. Department of Energy, and the Minnesota Department of Commerce barely touches on the major fishery and recreational aspects of this water body that would be impacted by a West Range site.

In my own instance, the oral comment I made at the Taconite Scoping hearing (August 22, 2006 meeting transcript, [http://energyfacilities.puc.state.mn.us/documents/16573/Transcript-\(8-22-06\)-public-meeting.pdf](http://energyfacilities.puc.state.mn.us/documents/16573/Transcript-(8-22-06)-public-meeting.pdf) , pages 54-55) was ignored by the project proponent and RGU in the scoping decision. My two oral comments at draft EIS public hearings are missing, and the written draft EIS comment I submitted (F-EIS Vol. 3, page 291-292, commenter 86, [http://energyfacilities.puc.state.mn.us/documents/16573/Mesaba-FEIS-Vol-3%20\(page%20287-350\).pdf](http://energyfacilities.puc.state.mn.us/documents/16573/Mesaba-FEIS-Vol-3%20(page%20287-350).pdf)) is discounted in the final EIS response as a mere "ditto" to other inadequate responses.

The important point is not whether I am offended by these lapses, but rather, whether the cold water fishery and recreational water body are adequately described, potential impacts to them articulated, and avoidance-mitigation-replacement alternatives explored so that informed siting and permitting decisions can be made.

Judge Steven M. Mihalchick
November 28, 2009
FEIS Comments from D. Dahl
page -3-

I believe that there is justification to return the final EIS to its authors as inadequate with respect to characterizing the Canisteo resource, with respect to describing potential impacts to the resource, and with respect to failing to explore alternatives for avoiding, mitigating impact or replacing the resource.

Sincerely,

David Dahl
9016 Lahti Road
Hibbing, MN 55746